

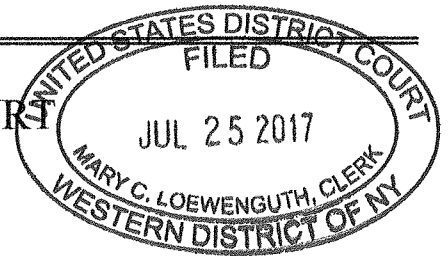
Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

for the

WESTERN District of NEW YORK

Buffalo Division



Case No. **17 CV 696** ✓
(to be filled in by the Clerk's Office)

Armando Arce - Pro Se

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

See attached

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Armando Arce		
Address	3283 Audrey Drive		
	Crestview	Florida	32539
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Okaloosa		
Telephone Number	7164508069		
E-Mail Address	armando.arce@live.com		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Chautauqua Family Court		
Job or Title <i>(if known)</i>			
Address	2 Academy Street (Suite 5)		
	Mayville	NY	14757
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Chautauqua		
Telephone Number	716-753-4351		
E-Mail Address <i>(if known)</i>			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 2

Name	David L. Turnbull		
Job or Title <i>(if known)</i>	Magistrate		
Address	2 Academy Street (Suite 5)		
	Mayville	NY	14757
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Chautauqua		
Telephone Number	716-753-4351		
E-Mail Address <i>(if known)</i>			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 3

Name

Job or Title *(if known)*

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address *(if known)*☐ Individual capacity☐ Official capacity

Defendant No. 4

Name

Job or Title *(if known)*

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address *(if known)*☐ Individual capacity☐ Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against *(check all that apply)*:

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

18 U.S. Code § 242 - Deprivation of rights under color of law. I was afforded no due process or equal protection under the law.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Chautauqua Family Court maintains jurisdiction of family court matters for Chautauqua County, New York.

Hon. Jeffrey Piazza and Hon. Michael Sullivan are the listed Judges who preside over Chautauqua Family Court.

Magistrate David L. Turnbull presided over my case and was acting in an official capacity for Chautauqua Family Court. .

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

I was summoned to Chautauqua Family Court, November 14, 2014, with Magistrate David L. Turnbull presiding; under threat of law.

Chautauqua Municipal Building
2 Academy Street (Suite 5)
Mayville, NY 14757

- B. What date and approximate time did the events giving rise to your claim(s) occur?

November 2014 - present

- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

My ex-wife (Ms. Swanson) petitioned Chautauqua Family Court for a modification of support. After being summoned to court, I discovered that Ms. Swanson had moved my son to an undisclosed location out of state.

Ms. Swanson moved without my knowledge, without court approval, in violation of our custody and visitation agreement, and in violation of our divorce judgment. Ms. Swanson has shown total disregard of our divorce judgment.

I brought this violation to Magistrate David L. Turnbull's attention in court. This is when and where I attempted to assert my rights. The initial proceedings held on November 2014, where I indicated to Magistrate David L. Turnbull that Ms. Swanson moved out of state to an undisclosed location. The Magistrate angrily asked Ms. Swanson if this was true, she said yes. The Magistrate changed the topic and never revisited my grievance. The magistrate did not compel Ms. Swanson to provide a corrected address. Additionally the magistrate did not request proof of custodial parent's relocation is in the best interest of the child. Magistrate David L. Turnbull closed the case without protecting my legal rights to my son or providing any relief what so ever.

Even though he had jurisdiction, Magistrate David L. Turnbull made the conscientious decision to allow my legal rights to my son to be stripped from me without a trial; without the due process of law. He did nothing to stop my ex-wife nor did he provide me with any form of relief. For approximately three years, Ms. Swanson has refused me access and refused to reveal her address. Ms. Swanson had effectively prevented me from having a relationship with my son.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

It is my impression that at the time Magistrate David L. Turnbull was taking advantage of my ignorance of the law and was attempting to take the path of least resistance. I reluctantly agreed Magistrate David L. Turnbull's decision for modification of support for fear that my situation would become worse. After the proceedings with Magistrate David L. Turnbull I was humiliated, I was distraught. I lost my son! Months later, I lost my temporary job due to not being able to pay for travel; eventually my family and I became homeless. I had to live in homeless shelters and borrow money from family members in order to relocate. I have not seen my son (Armando Arce Jr) for approximately three years. I still continue to endure the most severe emotional distress and depression imaginable. The loss of one's child that could have been prevented is the biggest insult.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am requesting \$12,300.00 in compensatory damages for lost wages and relocation costs.
I am also requesting \$3,000,000.00 in punitive damages for severe emotional distress and depression.

I lost my temporary job due to not being able to pay for travel; eventually my family and I became homeless. I had to live in homeless shelters and borrow money from family members in order to relocate.

Prior to my son moving back in with his mother, he was living with me for almost two years. Ms. Swanson's misdeed could have been corrected; Ms. Swanson had a legal obligation to provide me access to my son. Even if it was Ms. Swanson's intention to entirely restrict a relationship with me and my son, the burden of complying with our judgement of divorce fell on her. When Magistrate David L. Turnbull failed to act, he allowed my son to be taken from me.

Almost three of his adolescent years are taken from me, his father. How in the world will I ever get that back?

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 7/17/2017

Signature of Plaintiff 

Printed Name of Plaintiff Armando Arce

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

Address

City

State

Zip Code

Telephone Number

E-mail Address

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

Address

City

State

Zip Code

Telephone Number

E-mail Address

Attachment for the Defendants

1) Chautauqua Family Court

Hon. Jeffrey Piazza

Hon. Michael Sullivan

2) Magistrate David L. Turnbull

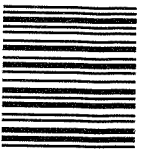
Armando Arce
3283 Audrey Dr.
Crestview, FL 32539



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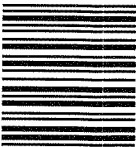


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R2305H127335-10

Buffalo Division
Office of the Clerk
200 United States Courthouse
US District Court for the Western District of New York
2 Niagara Square
Buffalo, NY 14202

New Case